

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2005-0497, In the Matter of Lee G. Clow and Frederick J. Clow, the court on September 14, 2006, issued the following order:

The respondent, Frederick J. Clow, appeals his divorce decree; the petitioner, Lee G. Clow, has filed a cross-appeal. The respondent contends that the trial court erred in valuing the marital estate, awarding the petitioner a fault-based divorce and a disparate property division based upon fault. The petitioner argues that the trial court erred in: (1) refusing to find value for earnings and good will in Clow Construction Company; (2) ordering the petitioner to pay the respondent \$25,000 as part of the property settlement and limiting the respondent's alimony obligation to ten years in its order on reconsideration; (3) finding that the petitioner had the ability to earn \$2000 per month; and (4) denying her request for attorney's fees and expert fees. We affirm.

The trial court has broad discretion in determining matters of property distribution and alimony in fashioning a final divorce decree. In the Matter of Letendre & Letendre, 149 N.H. 31, 34 (2002). Absent an unsustainable exercise of discretion, we will not overturn its ruling or set aside its factual findings. Id. In reviewing the trial court's findings, we recognize that the trial court is in the best position to evaluate the evidence, measure its persuasiveness and appraise the credibility of witnesses. See Hoffman v Hoffman, 143 N.H. 514, 519 (1999). The valuation of a business is a question of fact. See In the Matter of Watterworth & Watterworth, 149 N.H. 442, 450 (2003). We review a denial of attorney's fees with deference to the trial court's decision; we will not overturn that decision absent an unsustainable exercise of discretion. Jackson v. Morse, 152 N.H. 48, 54-55 (2005).

Having reviewed the issues raised on appeal, we conclude based upon the record before us that the order of the trial court is sustainable. See Letendre, 149 N.H. at 35; Super. Ct. R. 59-A (hearing on motion for reconsideration not permitted except by order of court); see also, e.g., State v. Tselios, 134 N.H. 405, 407 (1991) (motion for reconsideration gives trial court opportunity to correct errors before they are presented to appellate court).

Affirmed.

BRODERICK, C.J., and DALIANIS and GALWAY, JJ., concurred.

**Eileen Fox,
Clerk**